



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO. 306 OF 2019

Shashikala wd/o Ambadas Bhange,
Age 47 years, Occupation Labour Work,
R/o Bhavi Nimgaon,
Taluka Shevgaon, District Ahmednagar.

... Applicant

Versus

1. Sanjay Asaram Dale,
Age 40 years, Occu. Agri.,
2. Surekha Sanjay Dale,
Age 35 years, Occu. Agri.,
3. Gitabai Asaram Dale,
Age 65 years, Occu. Agri.,
4. Changdev Asaram Dale,
Age 50 years, Occu. Agri.,
5. Mirabai Changdev Dale,
Age 45 years, Occu. Agri.,
6. Dnyandeo Asaram Dale,
Age 42 years, Occu. Agri.,
7. Janaka Dnyandeo Dale,
Age 40 years, Occu. Agri.,
8. Surekha Alias Vaishali Dnyandeo Dale,
Age 35 years, Occu. Agri.,

All R/o Bhavi Nimgaon Shivar,
Shelke Vasti, Taluka Shevgaon,
District Ahmednagar.

9. The State of Maharashtra

... Respondents

.....

Mr. Sachin S. Panale, Advocate for the Appellant.

Mr. R. K. Temkar, Advocate for Respondent Nos. 1 to 8

Mrs. Chaitali Chaudhari Kutti, APP for Respondent No.9-State.

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CORAM : ABHAY S. WAGHWASE, J.

RESERVED ON : 17 AUGUST, 2026

PRONOUNCED ON : 18 AUGUST, 2026

JUDGMENT :

1. Original complainant, who set law into motion resulting into registration of crime bearing no. 33 of 2017 for offence under Section 306 r/w 34 of IPC and in turn which resulted into trial of Sessions Case No. 115 of 2017, hereby assails the judgment and order of acquittal dated 30.11.2017 passed by learned Adhoc Assistant Sessions Judge-4, Ahmednagar.

BRIEF FACTS OF THE CASE

2. In short, it is the case of prosecution that, informant Shashikala's daughter Surekha (accused no.2) was married to accused no.1 in 2000 and after marriage she went to cohabit with husband in in-laws at village Bhavi Nimgaon. In 2004, Surekha conceived and to help her and to take care of her, informant's another daughter, i.e. deceased Sonali was taken to the house of

accused and accordingly she stayed in the house of accused from 03.05.2005 to 13.09.2005. According to prosecution, during such period, accused persons maltreated Sonali with physical and mental harassment, as a result of which she was compelled to end up her life by consuming insecticide on 14.09.2005. On report of Shashikala, above crime was registered, investigated and accused persons were duly chargesheeted and also tried, but finally acquitted as above. Hence, the appeal.

SUBMISSIONS

On behalf of appellant/Informant :

3. Learned counsel for the informant would submit that, there was clinching evidence and moreover, there was no denial that Sonali was residing with her sister, i.e. accused no.2 Surekha from 03.05.2005 to 13.09.2005 i.e. for a period of four months. That, accused persons, who are sister Surekha, her husband and in-laws, inflicted physical and mental harassment. Getting fed up of the same, finally on 14.09.2005 Sonali consumed insecticide. There was no other reason for taking the extreme step of ending her life. That CA report was positive, but still learned trial court acquitted the accused. According to him, there is misreading and non-appreciation of

evidence in its correct perspective. That, essential ingredients for attracting the offence of abetment of suicide were very much available. The same as well as settled law has not been taken into account by the learned trial court. That, minor omissions and contradictions are given undue importance and therefore, the impugned judgment of acquittal is faulted at and it is urged to set aside the same by allowing the appeal and the accused respondents be convicted.

On behalf of the Respondent State :

4. Learned APP adopted the above submissions of learned counsel for the appellant. She also submitted that, there was both, physical and mental cruelty. That, deceased could not bear the maltreatment and therefore she consumed insecticide. Accused persons are solely responsible for the same and there was no other reason for the deceased to end her life and therefore, she also prays to set aside the judgment and order of acquittal.

On behalf of Respondents/Accused :

5. Per contra, learned counsel for the respondents-original accused would submit that, there is false implication. He pointed out

that, at the outset, there is hopelessly delayed FIR meaning thereby that it is a manufactured and afterthought story. He pointed out that, occurrence is of 14.09.2005 but FIR is lodged on 21.01.2017 that i.e. after more than 11 years. According to him, the above implication is false because the demand of property owned by accused no.4 to be parted with and transferred in the name of informant was refused, and the informant had dispatched legal notice to accused no.4 in that context. He further pointed out that, though as many as six witnesses are examined, their testimony is neither convincing nor reliable on the point of suicide. He pointed out that initially AD was registered, but subsequently, with ulterior motive, it was converted into offence under Section 306 IPC. That, learned trial court has considered and appreciated the evidence of each and every witness meticulously and has also tested the case of prosecution on the touchstone of legal requirements. Resultantly, he prays to not to disturb the well reasoned finding and judgment.

EVIDENCE IN TRIAL COURT

6. In support of its case, prosecution has adduced evidence of in all 6 witnesses. Their role and status and the sum and substance of their evidence can be summarized as under :

PW1 Informant Shashikala in her evidence at Exhibit 18 deposed about she having two daughters, namely, Surekha and Sonali. Surekha to be married with accused no.1 in 2000. After four years, her daughter accused Surekha conceived and in the sixth month of pregnancy, accused asked informant to send her daughter deceased Sonali for taking care of accused no.2 and accordingly she was sent and she stayed with accused persons for four months. Informant deposed that, deceased used to make phone calls on the landline of cousin Sanjay and inform that accused nos. 1, 5 and 7 troubling her. On one Wednesday she received phone call that accused no.2 Surekha had fallen from vehicle and so when informant went to the village, accused no.2 told her that, deceased Sonali suffered brain fever and expired and last rituals were performed. Accused nos. 1 and 2 stayed at informant's house for six months and in spite of repeatedly being asked, she was merely told that deceased died due to brain fever. After 15 days, she claims to have visited Shevgaon police station, where constable Puri told her that Sonali had died due to consumption of medicine. According to her, accused had mentally harassed Sonali and killed her and therefore, in consequence to the order in writ petition, police lodged report followed by recording of her statement.

PW2 Santosh acted as pancha to the spot panchanama Exhibit 22.

PW3 Bhaskar, who is brother of deceased, also deposed at Exhibit 23

that, in the year 2005 as his sister accused no.2 Surekha was pregnant, to help her in the household work, accused no.1 took deceased Sonali with him on 03.05.2005. That on 12.09.2005 he learnt from his mother about receipt of call from Sonali complaining of harassment at the hands of in-laws of accused no.2. He also learnt on 14.09.2005 that his sister died due to brain fever. He claims that he used to question how his sister died and why she cried on phone, but accused nos. 1 and 2 avoided to answer and as they were not allowing him and informant to talk with other relatives, suspicion about death of Sonali grew. According to him, on 05.10.2005 when his mother went to Shevgaon Police Station, she learnt that Sonali died because of consumption and on report of his mother, crime being registered.

PW4 is the autopsy surgeon who conducted postmortem on the dead body of Sonali and preserved viscera for CA and on going through the CA report, he deposed that death was due to fatal poisoning involving methyl gameton.

PW5 and **PW6** are Investigating Officers who conducted investigation at respective times.

ANALYSIS

7. Here, admitted position is that, deceased Sonali was put up with accused no.2, her elder sister, who was pregnant, for the period from 03.05.2005 to 13.09.2005 i.e. for taking care. Consumption of

insecticide is said to be of 14.09.2005. Prosecution story is that, accused persons, including accused no.2 elder sister of deceased, subjected Sonali to physical and mental harassment and therefore, she committed suicide. Now, it is to be seen whether there was indeed any abetment at the instance of accused persons, or not. Relevant evidence is of mother and brother of deceased, i.e. PW1 and PW2, as they are immediate family members of the deceased and acquainted with the facts of the case.

8. Substance of the Examination-in-chief of both above witnesses is already reproduced above.

9. In cross para 3 and 4 of **PW1**, material omissions and contradictions are brought. It is emerging that there is omission about she telling police that her daughter Sonali was sent with accused Sanjay and that she stayed with accused persons for four months. She admitted in para 4 about not informing in the police report that Sonali made phone calls on landline of her cousin or that, she learnt from deceased Sonali on phone that accused Sanjay, Changdeo and Dnyandeo troubled her. She admitted about not informing that she had asked her accused daughter Surekha about

injuries suffered by her and more importantly, she did not state in her police report that she learnt from constable Puri about Sonali dying due to consumption of medicine. Rest is all denial except the omission that field block no. 58 to be in the name of accused no.3.

10. Likewise, **PW3** Bhaskar, who is brother of deceased and son of PW1 informant, in his cross has merely denied all the suggestions given to him.

11. Law is fairly settled as regards the applicability of Section 306 IPC is concerned. Time and again, in umpteen judgments, the Hon'ble Apex Court as well as this Court have reiterated that, apart from inducement, direct instigation, active participation, there has to be *mens rea* also. The proximate trigger which led to suicide is also time and again clarified while dealing with above provision.

Few cases that could be named are, *Ramesh Kumar v. State of Chhattisgarh* (2001) 9 SCC 618, *S. S. Chheena v. Vijay Kumar Mahajan and Others* (2010) 12 SCC 190 as well as *M. Mohan v. The State represented by The Deputy Superintendent of Police* MANU/SC/0161/2011, wherein standard of "instigation" is

elaborately dealt and discussed.

Even, recently in the case of ***Abhinav Mohan Delkar v. State of Maharashtra and others***, MANU/SC/1103/2025 the Hon'ble Apex Court has reinforced "proximate trigger" doctrine emphasizing that there has to be close temporal and casual connection between the conduct of accused and the alleged suicide. Continuous harassment, without recent instigation, is held to be not sufficient to sustain the charge.

12. In the instant case, in order to attract charge of Section 306 IPC, in view of the judicial precedent, it was incumbent upon prosecution to substantiate that there was abetment at the end of accused persons, or inducement or any active participation by accused persons in the alleged consumption of insecticide by deceased Sonali. But apparently, prosecution evidence is miserably lacking on this count. PW1 and PW3 have mere hearsay information. What exactly happened on or before 13.09.2009 is not clear so as to hold accused persons responsible. Unless, there is positive and overt act with *mens rea* by any of the accused, the charge of abetment to commit suicide does not get gravitated. Here, prosecution evidence

was lacking the required essential ingredients of offence under Section 306 IPC. Resultantly, no fault can be found in the judgment and order of acquittal passed by the learned trial court. Appellant failed to demonstrate how trial court committed error or misread the evidence or passed perverse judgment. Hence, for want of merits, the following order is passed :

ORDER

The Criminal Appeal is hereby dismissed.

(ABHAY S. WAGHWASE)
JUDGE